

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

03/12/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000001

FILED: _____

STATE OF ARIZONA

THOMAS J PARASCANDOLA

v.

JOHN PAUL HOEPPNER

CAROL L DESZENDEFFY

CAREFREE MUNICIPAL COURT
REMAND DESK CR-CCC

MINUTE ENTRY

CAREFREE CITY COURT

Cit. No. #0335259

Charge: A. SPPED NOT R & P

DOB: 01/12/52

DOC: 08/21/01

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

Appellant has requested Oral Argument in this matter; however, this Court does not believe that oral argument would be helpful.

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IT IS THEREFORE ORDERED denying the Request for Oral Argument.

This matter has been under advisement and the Court has considered and reviewed the record of the proceedings from the trial Court, exhibits made of record and the Memoranda submitted.

The issues raised by the Appellant concern the sufficiency of the evidence to warrant the trial court's finding that it possessed jurisdiction over the Civil Traffic violation charge and the sufficiency of the evidence to warrant that conviction and finding of responsibility. When reviewing the sufficiency of the evidence, an appellate court must not re-weigh the evidence to determine if it would reach the same conclusion as the original trier of fact.¹ All evidence will be viewed in a light most favorable to sustaining a conviction and all reasonable inferences will be resolved against the Defendant.² If conflicts in evidence exists, the appellate court must resolve such conflicts in favor of sustaining the verdict and against the Defendant.³ An appellate court shall afford great weight to the trial court's assessment of witnesses' credibility and should not reverse the trial court's weighing of evidence absent clear error.⁴ When the sufficiency of evidence to support a judgment is questioned on appeal, an appellate court will examine the record only to determine whether substantial evidence exists to support the action of the lower court.⁵ The

¹ State v. Guerra, 161 Ariz. 289, 778 P.2d 1185 (1989); State v. Mincey, 141 Ariz. 425, 687 P.2d 1180, cert.denied, 469 U.S. 1040, 105 S.Ct. 521, 83 L.Ed.2d 409 (1984); State v. Brown, 125 Ariz. 160, 608 P.2d 299 (1980); Hollis v. Industrial Commission, 94 Ariz. 113, 382 P.2d 226 (1963).

² State v. Guerra, supra; State v. Tison, 129 Ariz. 546, 633 P.2d 355 (1981), cert.denied, 459 U.S. 882, 103 S.Ct. 180, 74 L.Ed.2d 147 (1982).

³ State v. Guerra, supra; State v. Girdler, 138 Ariz. 482, 675 P.2d 1301 (1983), cert.denied, 467 U.S. 1244, 104 S.Ct. 3519, 82 L.Ed.2d 826 (1984).

⁴ In re: Estate of Shumway, 197 Ariz. 57, 3 P.3rd 977, review granted in part, opinion vacated in part 9 P.3rd 1062; Ryder v. Leach, 3 Ariz. 129, 77P. 490 (1889).

⁵ Hutcherson v. City of Phoenix, 192 Ariz. 51, 961 P.2d 449 (1998); State v. Guerra, supra; State ex rel. Herman v. Schaffer, 110 Ariz. 91, 515 P.2d 593 (1973).

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Arizona Supreme Court has explained in State v. Tison⁶ that
"substantial evidence" means:

More than a scintilla and is such proof as
a reasonable mind would employ to support
the conclusion reached. It is of a character
which would convince an unprejudiced thinking
mind of the truth of the fact to which the
evidence is directed. If reasonable men may
fairly differ as to whether certain evidence
establishes a fact in issue, then such evidence
must be considered as substantial.⁷

This Court finds that the trial court's determination was
not clearly erroneous and was supported by substantial evidence.

IT IS ORDERED affirming the judgment of responsibility and
sanctions imposed.

IT IS FURTHER ORDERED remanding this matter back to the
Carefree City Court for all further and future proceedings.

⁶ SUPRA.

⁷ Id. At 553, 633 P.2d at 362.